

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION**

UNITED STATES OF AMERICA

VS. 4:13CR00228-1 DPM

MICHAEL WAYNE WOLVERTON

**ORDER**

On July 31, 2013, the Court entered an Order Setting Condition of Release, and placed Defendant on home incarceration in Memphis. *Docket entry #8*. On October 9, 2013, the Court granted Defendant's request for the less-restrictive condition of home detention. *Docket entry #24*.

On November 6, 2013, the Court issued an arrest warrant based on Defendant's alleged violations of his conditions. *Docket entry #26*. On November 7, 2013, Defendant was arrested in Memphis. *Docket entry #28*.

On November 8, 2013, Defendant had his Initial Appearance in the Western District of Tennessee. *United States v. Wolverton*, W.D. Tn. No. 2:13-mj-00032 CGC. At that time, Defendant consented to detention, and reserved his right to request a detention hearing in the Eastern District of Arkansas. It appears that through most of November, Defendant was detained at the West Tennessee

Detention Center in Mason, Tennessee. He was later moved to the Pulaski County Detention Facility.

On December 5, 2013, defense counsel wrote a letter to United States District Judge D. P. Marshall Jr.<sup>1</sup> *Court's Exhibit A attached hereto*. Counsel requests the Court to “make a recommendation to the U.S. Marshal’s Service that [Defendant] be returned to the West Tennessee Detention Center[.]” *Id.* He states that the move would allow Defendant’s family to visit him and would facilitate trial preparation because counsel is located in Jonesboro.

The United States Marshal is responsible for the safekeeping and transportation of pretrial detainees, “and numerous factors are considered with each placement, including the availability of bed space.” *United States v. Owens*, 2008 WL 1995239 (W.D. N.C. May 5, 2008) (unpublished). The Court lacks the authority to “recommend” or substitute its own views about where Defendant should be detained pending trial. *See id. at* \*1 (“The Court will not second-guess [the Marshal’s] placement decisions unless extraordinary circumstances compel the Court to do so[.]”); *United States v. Amawi*, 2008 WL 686871 (N.D. Ohio Mar. 11, 2008) (unpublished) (“I have neither the experience, expertise nor authority to substitute my judgment for [the Marshal’s].”). Defense counsel’s request for a “recommendation” for transfer is DENIED.

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<sup>1</sup> On December 18, 2013, Judge Marshall’s chambers forwarded the letter to the Court for consideration.

IT IS SO ORDERED this 23<sup>rd</sup> day of December, 2013.

  
UNITED STATES MAGISTRATE JUDGE

*W. Ray Nickle*

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December 5, 2013

Honorable Judge D. Price Marshall, Jr.  
United States District Judge  
Richard Sheppard Arnold US Courthouse  
600 W. Capitol, Room B155  
Little Rock, AR 72201-3325

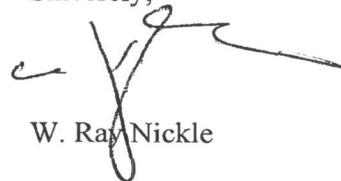
RE: United States vs. Michael Wayne Wolverton  
U.S. District Case No. 4:13 CR 00228-01 DPM

Dear Judge Marshall:

As you are aware, I represent Michael Wolverton concerning the above referenced matter. Please treat this letter as a request that the Court make a recommendation to the U.S. Marshall's Service that my client be returned to the West Tennessee Detention Center in Mason, Tennessee to be housed while this matter remains pending. He has been housed there for approximately the last thirty (30) days prior to being moved to Pulaski County Jail. Please note that facility is closer to his family and allows his mother (who lives in Germantown, TN) to visit. Further, the location is closer for me and allows me to more diligently make preparations for his defense/representation (which should be helpful in avoiding unnecessary delays).

Thank you for your time and consideration of this matter.

Sincerely,



W. Ray Nickle

WRN/kt

cc: Marsha Clevenger, Assistant U.S. Attorney

